In the United Stated Court of Federal Claims Office of Special Masters

(E-Filed: November 28, 2006)

)	
DAVID DICONZA,)	
Petitioner,)	
)	
v.)	No. 02-1109V
)	UNPUBLISHED
SECRETARY OF THE DEPARTMENT OF)	Dismissal for Failure to
HEALTH AND HUMAN SERVICES,)	Prosecute; Noncompliant
Respondent.)	Petitioner
)	
)	

ORDER DISMISSING PETITION FOR FAILURE TO PROSECUTE¹

Petitioner, David Diconza, timely filed a claim for compensation pursuant to the National Vaccine Injury Compensation Program² (the Act or the Program) on September 3, 2002. By notice of reassignment dated February 8, 2006, the Chief Special Master reassigned Mr. Diconza's petition to the undersigned for consideration.

In accordance with the court's Order of September 18, 2006, petitioner's counsel has filed Petitioner's Status Report (P's SR). The status report details the repeated efforts of petitioner's counsel to contact his client's between June 13, 2006 and August 3, 2006. P's

¹Vaccine Rule 18(b) states that all of the decisions of the special masters will be made available to the public unless an issued decision contains trade secrets or commercial or financial information that is privileged or confidential, or the decision contains medical or similar information the disclosure of which clearly would constitute an unwarranted invasion of privacy. When a special master files a decision or substantive order with the Clerk of the Court, each party has 14 days within which to identify and move for the redaction of privileged or confidential information before the document's public disclosure.

²The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 to -34 (2000 & Supp. II 2003) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

SR at 2-3. The status report states that petitioner has failed to respond to counsel's telephone messages or correspondence sent by certified mail. <u>Id.</u> at 3-4. On August 9, 2006, petitioner's counsel received a certified mail receipt confirming that petitioner had received his counsel's letter advising that his case "was in danger of being dismissed due to lack of prosecution." <u>Id.</u> at 3-4. To date, petitioner has not responded to his counsel's messages or correspondence. <u>Id.</u> at 4.

On October 6, 2006, having failed to receive any response from petitioner, the court issued an Show Cause Order (Order), directing Mr. Diconza to contact his attorney on or before November 6, 2006, to "show cause why his case should not be dismissed for failure to prosecute" Order at 1.

To date, Mr. Diconza has not been in contact with his attorney and thus, has not complied with the October 6, 2006 Order of the court. Accordingly, this petition is **DISMISSED** for failure to prosecute. The Clerk of the Court shall **ENTER JUDGMENT** accordingly.³

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Special Master

³Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.